

Docket No.: M1103.70794US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Maarten R. Van Dantzich et al.
Serial No.: 09/882,857
Confirmation No.: 8785
Filed: June 15, 2001
For: SCOPE USER INTERFACE FOR DISPLAYING THE PRIORITIES
AND PROPERTIES OF MULTIPLE INFORMATIONAL TIEMS
Examiner: M. Roswell
Art Unit: 2173

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Dated: June 16, 2009

Signature: Danielle Lader

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

This Brief is filed in response to the Examiner's Answer, mailed April 16, 2009.

I. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 16 claims pending in the application.

B. Current Status of Claims

1. Claims canceled: 2-13, 22-33, 35-43 and 45
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1, 14-21, 34, 44 and 46-50
4. Claims allowed: None
5. Claims rejected: 1, 14-21, 34, 44 and 46-50

C. Claims On Appeal

The claims on appeal are claims 1, 14-21, 34, 44 and 46-50.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Whether claims 1, 14, 16-18, 20, 21, 34, 44, and 46-49 are unpatentable under 35 U.S.C. §103(a) over Gross (US 5,555,346), Kelts (US 2001/0030667), Selker (US 6,549,219), and Nielsen (US 6,337,699).
- B. Whether claim 15 is unpatentable under 35 U.S.C. §103(a) over Gross (US 5,555,346), Kelts (US 2001/0030667), Selker (US 6,549,219), Nielsen (US 6,337,699), and Knowlton (US 6,057,842).
- C. Whether claim 19 is unpatentable under 35 U.S.C. §103(a) over Gross (US 5,555,346), Kelts (US 2001/0030667), Selker (US 6,549,219), Nielsen (US 6,337,699), and Simonoff (US 6,078,322).
- D. Whether claim 50 is unpatentable under 35 U.S.C. §103(a) over Gross (US 5,555,346), Kelts (US 2001/0030667), Selker (US 6,549,219), Nielsen (US 6,337,699), and Keller et al. (US 5,767,852).

III. ARGUMENT

Appellant respectfully requests that the Examiner's final rejection of all the claims be reversed.

A. Comments on Grounds of Rejection

In Section (9), the Answer substantially restates the grounds for rejection in the Final Office Action of July 22, 2008. Though Applicants do not agree with the points made in this section, Applicants affirm their position pointing out the errors in the grounds of rejection as stated in the Appeal Brief, and will not further comment on the Grounds of Rejection in Section (9).

B. Comments on Response to Arguments

Applicants respectfully submit that the references are being interpreted through a hindsight mischaracterization. If properly interpreted, the combination of references would not teach all limitations of the claims. Specifically:

On page 10 of the Answer, the Examiner characterizes Selker in a way that is not consistent with the reference as it would have been read by one of skill in the art. Rather, the reference is characterized in hindsight based on Applicants' disclosure. The Examiner states that Selker "explicitly teaches data related to e-mail systems in colored wedges." In reality, Selker describes a menu system (note, e.g., Title, Abstract). To the extent Selker mentions e-mail (Selker, col. 5, lines 38-43), the reference would have been understood to relate to a menu system of an e-mail program – not display of objects representing e-mails, as in the claims.

On page 11 of the Answer, the Examiner asserts that Kelts teaches "the user interface that provides feedback about one or more user actions relating to at least some of the one or more e-mails, ... the priorities system configured to adjust its decision making regarding the prioritization

of one or more subsequently received e-mails based on the feedback received from the user interface about the one or more user actions relating to the one or more e-mails,” as recited in claim 1. In support of this position, Examiner cites paragraphs 86 and 159. Applicants respectfully disagree with the characterization of paragraphs 86 and 159 of Kelts.

In one of the cited passages, as pointed to by the Examiner, Kelts states that “[t]he prioritization scheme can be dynamically responsive to use patterns or programming changes in a manner that facilitates automatic updating of the navigation map characteristics” (Kelts, page 8, ¶0086). However, the above statement does not indicate that Kelts discloses the priorities system configured to **adjust its decision making** regarding the prioritization of one or more **subsequently received** e-mails (emphasis added). Presumably the Examiner equates the maps of Kelts with e-mails. Nonetheless, the cited passages of Kelts could not reasonably be interpreted as relating to **subsequently received** e-mails. Kelts states that the prioritization metric can be based *on the frequency of selection of the map items by a user*, thus resulting in *frequently accessed map items being displayed at the lowest magnification level* and less frequently accessed map items being delegated to relatively higher magnification levels (Kelts, page 8, ¶0086) (emphasis added). Further, Kelts states that if a user frequently visits **a station**, then **that station** will eventually move up in priority until it becomes displayed at the lowest magnification level and at each higher level (Kelts, page 8, ¶0086) (emphasis added). Thus, in Kelts, a magnification level of a map item depends on a frequency of access of **the same** map item.

Thus, dynamic responsiveness of the prioritization scheme of Kelts relates to automatic updating of navigation map characteristics of a **same item**. In contrast, claim 1 recites the priorities system that adjusts its decision making regarding the prioritization of one or more **subsequently received e-mails** based on the feedback provided by the user interface (emphasis added). Independent claims 34, 44 and 46 include similar respective limitations regarding **subsequently received e-mails**. Therefore, there is no basis for the assertion that Kelts teaches “the ability to respond to and prioritize ‘new information’,” as stated by the Examiner on page 11, lines 14-15.

In addition, the Examiner cites to a new portion of Kelts, ¶0060, and assert that Kelts discloses that “the displayed map items ‘may vary depending on the particular application’.” Applicants respectfully note the Examiner is incorrect in his interpretation of this portion of Kelts. In this passage, Kelts describes that the content of *information element 106 may vary depending on the particular application*, and such content need not be limited to data associated with conventional or Internet-based television, radio, music, or video “stations” (Kelts, Fig. 1; page 4, ¶0060) (emphasis added). However, information element 106 of Kelts is not even a “displayed map item.” Indeed, Kelts states that the information element 106 contains “live” or real-time information *regarding* the currently selected active map item (Kelts, Fig. 1; page 4, ¶0060) (emphasis added). As shown in Fig. 1 of Kelts, information element 106 contains the station (or network) name, a station identifier and the name of the program currently being broadcast (Kelts, Fig. 1; pages 4 and 5, ¶0061). Thus, this additional portion of Kelts cited by the Examiner does not provide any further support for the rejection.

On page 12, lines 1-10, the Examiner provides an interpretation of Selker that is not supported by the reference, again demonstrating that the references are being interpreted in hindsight. The Examiner states that the levels of Selker are “similar to the user interface of well-known e-mail applications that represent individual e-mails as child data items, with attributes such as “Sender,” “Subject,” “Date Received,” etc. as parent structures for the e-mail items.” However, neither Selker, nor any other of the cited references, provides a basis for such interpretation of the reference.

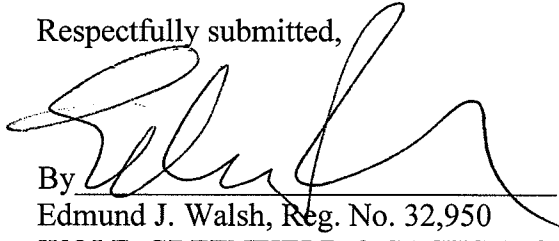
In support of this interpretation, the Examiner cites a new portion of Selker, col. 4, lines 4-20, where the reference describes “specific use of a hierarchical level menu system.” However, Selker relates to **menu** levels. In this portion additionally cited by the Examiner, Selker describes parent and child **menu items** such as, for example, a “Help” menu general heading and a “Help table of contents” subheading. The reference makes no mention of attributes quoted by the Examiner, such as “Sender,” “Subject,” “Date Received,” etc. as parent structures for the e-mail items.”

IV. CONCLUSION

For the reasons stated in the Appeal Brief, and for the foregoing reasons, all of the claims on appeal are not obvious in light of Gross, Kelts, Selker and Nielsen. Accordingly, the rejections of all claims should be reversed.

Dated: June 16, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Edmund J. Walsh', is written over a horizontal line.

By

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